

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

14 2005

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Winter Chatman
2255 Satellite Boulevard, I-208
Duluth, GA 30097

(b) County of Residence of First Listed Plaintiff Gwinnett County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Brad J. Tabakin, Esq.
Galerman, Tabakin & Wolfe, LLP
261 old York Rd., P.O. Box 645
Jenkintown, PA 19046

DEFENDANTS

Phila. Museum of Art and City of Phila.
2600 Benjamin Franklin Parkway 1515 Arch St., 14th Fl.
Phila., PA 19130 Phila., PA 19102

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 365 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332(a)(1) and 28 U.S.C. 1391(a)(2)
Premises Liability

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4-1-14

SIGNATURE OF ATTORNEY OF RECORD

Tabakin

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

APR 3 2014

MAG. JUDGE

MAS

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2255 Satellite Boulevard, I-208, Duluth, GA 30097 14 2005

Address of Defendant: 2600 Benjamin Franklin Parkway 2nd 15 15 Arch Street, 14th Floor, Phila, PA 19102

Place of Accident, Incident or Transaction: 2600 Benjamin Franklin Parkway, Philadelphia, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☒ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) Premises Liability
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Brad b. Tabakin, Esquire

counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 4-1-14

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4-1-14

Attorney-at-Law

65649
Attorney I.D.#

65649
Attorney I.D.#

NIQA**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA****CASE MANAGEMENT TRACK DESIGNATION FORM**

Winter Chatman

v.

Philadelphia Museum of Art
and City of Philadelphia

CIVIL ACTION

NO. **14** **2005**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (✓)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

4/4/14
Date*W. Mahabadi*
Attorney-at-lawBrad S. Tabakin, Esquire
Attorney for plaintiff

215-885-4701

215-885-4780

brad@galltablaw.com

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

APR 3 2014

NIQA
\$400.00

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

1

WINTER CHATMAN
2255 Satellite Boulevard, I-208
Duluth, GA 30097

Plaintiff

v.

PHILADELPHIA MUSEUM OF ART
2600 Benjamin Franklin Parkway
Philadelphia, PA 19130
and
CITY OF PHILADELPHIA
Risk Management Division
1515 Arch Street, 14th Floor
Philadelphia, PA 19102

Defendant

NO: 14 2005

COMPLAINT AND JURY DEMAND

FILED

APR 3 2014

MICHAEL E. KUNZ, Clerk
By Dep. Clerk

CIVIL ACTION COMPLAINT

1. Plaintiff, Winter Chatman, is an adult individual residing at 2255 Satellite Boulevard, I-208, Duluth, Georgia 30097.
2. Defendant, Philadelphia Museum of Art (hereinafter referred to as "Museum") is a corporation or other business entity authorized and existing under the laws of the Commonwealth of maintaining its principal place of business located at 2600 Benjamin Franklin Parkway, Philadelphia, Pennsylvania 19130.
3. Defendant, City of Philadelphia (hereinafter referred to as "City"), is a municipal entity created and existing under the laws of the Commonwealth of Pennsylvania maintaining an office for acceptance of service at 1515 Arch Street, 14th Floor, Philadelphia, Pennsylvania 19107.

5

JURISDICTION

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 1332(a)(1) in that “the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different States”.

5. Venue over this action is appropriate in this matter pursuant to 28 U.S.C. 1391(a)(2), in the Eastern District of Pennsylvania in that it is where a substantial part of the events or omissions giving rise to the claim occurred.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

6. Plaintiff avers and incorporates by reference, paragraphs one (1) through five (5) as though same were fully set forth herein.

7. At all times material to this Civil Action, Plaintiff, Winter Chatman, was a business invitee at Defendant, Museum, located at 2600 Benjamin Franklin Parkway, Philadelphia, Pennsylvania.

8. At all times relevant and material to this Civil Action, Defendants, Museum and City, jointly and/or severally, owned, controlled, operated, and/or maintained the premises located at 2600 Benjamin Franklin Parkway, Philadelphia, Pennsylvania, including, but not limited to, the sidewalks, walkways, entrances and/or steps adjacent to and a part thereof of the said premises.

9. At all times material hereto, Defendants, Museum and City, jointly and/or severally, acted or failed to act by and through their agents, servants, workmen and/or employees who were then and there acting within the scope of their authority and course of their employment with Defendants, Museum and City, jointly and/or severally, in furtherance of its business and on its behalf.

10. On or about April 12, 2012, at or about 10:00 A.M., Plaintiff, Winter Chatman, was a pedestrian lawfully walking on the Northwest terrace to the rear of Defendants’ herein,

jointly and/or severally, premises at 2600 Benjamin Franklin Parkway, Philadelphia, Pennsylvania, when suddenly and without warning she was caused to trip, slip and fall due to a dangerous and defective condition, that being broken or uneven paver/slate walkway causing the Plaintiff, Winter Chatman, to sustain severe and grievous injuries hereinafter more fully set forth.

11. The aforesaid incident was due to the negligence and carelessness of Defendants, Museum and City, jointly and/or severally, and was due, in no way whatsoever, to any act and/or failure to act on the part of Plaintiff, Winter Chatman.

12. The negligence and carelessness of Defendants, Museum and City, jointly and/or severally, consisted of the following:

- a.) allowing and causing a dangerous and defective condition to exist on the aforesaid premises, which Defendants knew, or should have known, by the exercise of reasonable care;
- b.) failing to correct said dangerous and defective conditions of which Defendants knew, or should have known, and which constituted a danger to pedestrians lawfully thereon, especially Plaintiff herein;
- c.) failing to keep and maintain the aforesaid premises in a reasonably safe condition for use by pedestrians, especially Plaintiff herein;
- d.) failing to give warning or notice of the existence of the dangerous and defective condition of the said premises to pedestrians, especially Plaintiff herein;
- e.) failing to provide and maintain a safe and proper route of travel for Plaintiff and other persons lawfully upon the premises;
- f.) disregarding the rights and safety of Plaintiff;
- g.) failing to inspect said premises at reasonable intervals in order to determine the condition thereof;
- h.) failing to exercise due care under the circumstances;
- i.) failure to repair, fix or cure the aforesaid dangerous condition;
- j.) violating the applicable ordinances, statutes, codes and/or building codes of the City and County of Philadelphia and/or Commonwealth of

Pennsylvania; and

k.) Negligence at law.

13. As a result of the negligence and carelessness of Defendants herein, jointly and/or severally, Plaintiff, Winter Chatman, was caused to sustain multiple bruises, contusions and nerve damage, of, but not limited to, her neck, left shoulder, knees, left hip, left foot and head, which injuries have, in the past, and will, in the future, cause Plaintiff great pain and suffering, a serious impairment of her bodily functions and which are or may be permanent in nature.

14. As a further result of this accident, Plaintiff, Winter Chatman, has been, or will be, required to receive and undergo medical attention and care and to expend various sums of money and to incur various expenses described in 42 C.S.A. Section 8553(c)(3) for the injuries suffered, the cost or reasonable value of which currently equals or exceeds \$1,500.00 and may be required to continue to expend such sums or incur such expenditures for an indefinite time in the future.

15. As a further result of this accident, Plaintiff, Winter Chatman, has suffered medically determinable physical and/or mental impairment which prevents her from performing all or substantially all of the material acts and duties which constituted the Plaintiff's usual and customary activities prior to the accident.

16. As a direct and reasonable result of the accident aforementioned Plaintiff, Winter Chatman, has or may hereafter incur other financial expenses which do or may exceed amounts which she may otherwise be entitled to recover, all to her great detriment and loss, which currently equal or exceed \$19,150.00.

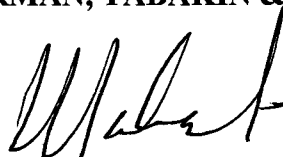
17. As a further result of the accident aforementioned, Plaintiff, Winter Chatman, has suffered severe physical pain, mental anguish and humiliation, and may continue to suffer same for an indefinite time in the future.

WHEREFORE, Plaintiff, Winter Chatman, demands judgment against Defendants, Museum and City, jointly and/or severally, in her favor, in an amount in excess of Seventy Five Thousand Dollars (\$75,000.00), together with compensatory damages, interest, costs of suit,

attorney's fees, and any other damages allowed by law.

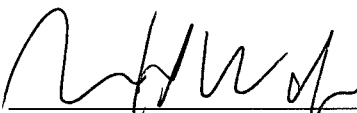
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